

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANDREW CHANG, on behalf of themselves,
FLSA Collective Plaintiffs and the Class, et
al.,

Plaintiffs,

-v-

No. 17-CV-8816-LTS-SLC

PHILIPS BRYANT PARK LLC d/b/a
BRYANT PARK HOTEL, et al.,

Defendants.

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ORDER

The Court has reviewed Plaintiffs' motion for preliminary approval of class settlement and corresponding papers (docket entry nos. 53, 54, and 55), and Magistrate Judge Cave's Report and Recommendation recommending that the Court grant Plaintiffs' motion with certain modifications to the proposed Notice of Proposed Class Action Settlement ("Proposed Notice," docket entry no. 55-2) (docket entry no. 67).

Plaintiffs are directed to file an amended Proposed Notice that includes the following revisions, some of which were identified in Judge Cave's Report and Recommendation. Question 10 on page 5 of the Proposed Notice must be amended to inform recipients that they may appear through an attorney. Question 7 on page 4 of the Proposed Notice must be amended to inform recipients that the District Court will exclude any member of the class who requests exclusion through the procedures set forth in the Notice. The Proposed Notice must also be revised to inform recipients about their potential causes of action under the Fair Labor Standards Act ("FLSA"), since class members are to be opting in and releasing those

claims upon cashing their check. The Proposed Notice must define and explain a “collective action” pursuant to Section 216(b) of the FLSA (just as the Proposed Notice currently explains a “class action” in response to question 2 on page 2), including by explaining that recipients must affirmatively “opt in” to be part of the class and any settlement agreement, and the mechanism by which this settlement requires them to simultaneously opt in and settle their FLSA claims if they are to receive money under this settlement at all. It must also explain that their FLSA claims will be unaffected if they opt out of the class action settlement, and that their FLSA claims will not be affected if they do not opt out of the settlement and fail to cash their check. The amended Proposed Notice must be filed by **December 9, 2019**.

Plaintiffs are further directed to email a Word version of their Proposed Order (docket entry no. 53-1) to the Chambers of the undersigned; counsel is directed to contact Chambers for the appropriate email address.

SO ORDERED.

Dated: New York, New York
November 25, 2019

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge